UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

FAIRMONT GENERAL HOSPITAL

and

Case 06-CA-099791

SEIU/DISTRICT 1199, WV/KY/OH, THE HEALTH CARE AND SOCIAL SERVICE UNION, CTW, CLC

ORDER DENYING MOTION

The Respondent's motion for summary judgment in Case 06-CA-099791 is denied. The Respondent has failed to establish that it is entitled to judgment as a matter of law.¹

Dated, Washington, D.C., June 27, 2013

MARK GASTON PEARCE, CHAIRMAN

RICHARD F. GRIFFIN, JR., MEMBER

SHARON BLOCK, MEMBER

¹ The Respondent contends that the Board should dismiss the complaint or, in the alternative, stay the instant proceedings pending the appointment of a sufficient number of Board Members to establish a quorum, because the Board acted ultra vires by issuing the complaint at a time when it lacked a valid quorum under *Noel Canning v. NLRB*, 705 F.3d 490 (D.C. Cir. 2013), cert. granted 81 USLW 3629, 2013 WL 1774240 (U.S. June 24, 2013), and *NLRB v. New Vista Nursing* & Rehabilitation, 2013 WL 2099742, -- F.3d-- (3d Cir. May 16, 2013). For the reasons stated in *Bloomingdale's*, *Inc.*, 359 NLRB No. 113 (2013), these arguments are rejected.